USDC SDNY

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	X	DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2/10/2023
AU NEW HAVEN, LLC, et al.,	: : :	
Plaintiffs,	:	1:15-cv-3411-GHW
-V -	: :	<u>ORDER</u>
YKK CORPORATION, et al.,	: :	
Defendants.	: :	
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GREGORY H. WOODS, United States District In	iage:	

Having considered the arguments presented by the parties at the February 10, 2023 conference, the Court has determined that trial in this case must be deferred until after the Supreme Court's impending decision in *Abitron Austria GmbH v. Hectronic Int'l, Inc.*, Dkt. No. 21-1043.

Accordingly, the Court hereby sets the following dates for trial and completion of pretrial matters:¹

- **February 24, 2023:** Deadline for either party to indicate whether they intend to modify any expert report.³
- May 5, 2023: Parties exchange any proposed stipulations of fact, full exhibit lists, full lists of proposed deposition designations, proposed verdict forms, proposed short descriptions

¹ The Court recognizes that much of the below-listed material has previously been exchanged by the parties, provided to the Court, or both. Nonetheless, the Court hopes that this schedule will efficiently ensure that the parties and the Court have all of the materials they need to go to trial on July 17, 2023.

² Deadlines are set for 11:59 EST on the day listed, unless otherwise indicated.

³ As discussed at the conference on February 10, 2023, the Court expects that it will subject any (modified or unmodified) expert report to *Daubert* scrutiny based on the jury's definition of "high end outerwear" as determined at the high-end outerwear trial, which was information that was not available in the Court's previous consideration of expert reports. After the February 24, 2023 deadline for the parties to indicate whether they intend to modify expert reports passes, the Court will set a deadline for (a) the submission of new or updated expert reports, if necessary, and (b) written submissions opposing the admissibility of expert reports. If a party elects not to inform the Court, before the February 24, 2023 deadline, that it wishes update its expert disclosures, it should expect that the Court will evaluate the admissibility of their proposed expert testimony as previously presented to the Court and should not expect any further opportunities to modify or update their disclosures or the nature or scope of their experts' proposed testimony.

⁴ Plaintiffs are given leave to include the exhibits identified in paragraph four of their February 6, 2023 letter, *see* Dkt. No. 928 ¶ 4, in their exhibit list so long as they have a good-faith argument that these exhibits are admissible at trial.

of the case, proposed short descriptions of the relevant law, and lists of witnesses they intend to use at trial. Plaintiffs serve draft Third Revised Pretrial Order.

• May 26, 2023: Parties meet and confer, by this date, to (a) complete a list of stipulated facts, if any, (b) address any issues related to Japanese translation, (c) discuss their proposed short descriptions of the case and relevant law, and (d) complete jury instructions. Parties exchange oppositions to exhibits and deposition designations. Defendants serve redline of Third Revised Pretrial Order.

• June 2, 2023: Parties exchange objections to deposition counter-designations.

• June 9, 2023: Parties provide by filing on the docket and, in native format, in email to chambers: (1) Third Revised Pretrial Order, (2) witness lists (with topics of intended testimony and estimated time of testimony), (3) exhibits lists and objections, (4) deposition designations, objections, and counter-designations, (5) stipulated facts, if any, (6) proposed verdict forms, (7) jury instructions, (8) short description of the case, and (9) short description of the relevant law.

July 7, 2023, at 9:00 a.m.: Final pretrial conference in Courtroom 12C, 500 Pearl Street,
 New York, NY 10007.

• July 18, 2023, at 9:00 a.m.: First day of trial. Trial will be held in Courtroom 12C, 500 Pearl Street, New York, NY 10007.

SO ORDERED.

Dated: February 10, 2023 New York, New York

GREGORYH. WOODS United States District Judge

⁵ Through this meet-and-conferral process, the parties should attempt to narrow the scope of disagreements in their proposed short descriptions of the case and law, as well as any disagreements in their proposed jury instructions. The parties should bear in mind, in particular, (a) the level of detail used by the Court in its short case description and short description of the law at the HEO trial, and (b) the jury instructions used by the Court at the HEO trial, which may provide guidance for some jury instructions at this trial.